

105TH CONGRESS
1ST SESSION

S. 318

To amend the Truth in Lending Act to require automatic cancellation and notice of cancellation rights with respect to private mortgage insurance which is required by a creditor as a condition for entering into a residential mortgage transaction, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 12, 1997

Mr. D'AMATO introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To amend the Truth in Lending Act to require automatic cancellation and notice of cancellation rights with respect to private mortgage insurance which is required by a creditor as a condition for entering into a residential mortgage transaction, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Homeowners Protec-
5 tion Act of 1997”.

1 **SEC. 2. NOTIFICATION OF CANCELLATION RIGHTS FOR PRI-**
 2 **VATE MORTGAGE INSURANCE.**

3 (a) IN GENERAL.—Chapter 2 of the Truth in Lend-
 4 ing Act (15 U.S.C. 1631 et seq.) is amended by inserting
 5 after section 125 the following:

6 **“SEC. 126. CANCELLATION RIGHTS FOR PRIVATE MORT-**
 7 **GAGE INSURANCE.**

8 “(a) INSURANCE RATIO STANDARD.—

9 “(1) IN GENERAL.—No consumer, in connection
 10 with a residential mortgage transaction, shall be re-
 11 quired by the creditor to obtain or maintain private
 12 mortgage insurance if that consumer has, or will
 13 have at the time that the transaction is con-
 14 summated, equity in the property that is the subject
 15 of the transaction in excess of the private mortgage
 16 insurance ratio.

17 “(2) REGULATORY REQUIREMENT.—The
 18 Board—

19 “(A) shall issue rules to implement para-
 20 graph (1); and

21 “(B) may issue rules exempting certain
 22 classes of transactions from the provisions of
 23 paragraph (1) if the Board finds that such ex-
 24 emption is necessary—

25 “(i) to ensure sound underwriting
 26 standards; or

1 “(ii) to further the availability of
2 credit to persons who might otherwise be
3 denied credit if paragraph (1) was applied
4 to residential mortgage transactions involv-
5 ing such persons.

6 “(b) NOTICE OF RIGHT OR LACK OF RIGHT TO CAN-
7 CEL.—If a consumer is required to obtain and maintain
8 private mortgage insurance as a condition for entering
9 into a residential mortgage transaction, the creditor shall
10 disclose to the consumer the current private mortgage in-
11 surance ratio for the subject property, in writing, at the
12 time that the transaction is entered into.

13 “(c) INFORMATION REQUIRED TO BE DISCLOSED.—
14 With respect to each residential mortgage transaction, the
15 creditor shall disclose to the consumer, in writing, the fol-
16 lowing information at the time the transaction is entered
17 into:

18 “(1) IDENTIFYING INFORMATION.—Such infor-
19 mation as may be necessary to permit the consumer
20 to communicate with the creditor or any subsequent
21 servicer of the mortgage, concerning the private
22 mortgage insurance of that consumer.

23 “(2) CANCELLATION PROCEDURES.—The proce-
24 dures required to be followed by the consumer in
25 canceling the private mortgage insurance.

1 “(d) INFORMATION REQUIRED TO BE DISCLOSED
 2 WITH EACH PERIODIC STATEMENT.—If a consumer is re-
 3 quired to obtain and maintain private mortgage insurance
 4 as a condition for entering into a residential mortgage
 5 transaction, the person servicing the mortgage shall in-
 6 clude in or with each written statement of account pro-
 7 vided to the consumer, beginning with the first such state-
 8 ment following the date of enactment of the Homeowners
 9 Protection Act of 1997, while such insurance is in effect,
 10 but not less than annually—

11 “(1) the information required to be disclosed
 12 under subsections (b) and (c); or

13 “(2) a clear and conspicuous written statement
 14 containing—

15 “(A) a statement that the consumer may
 16 cancel the private mortgage insurance and a de-
 17 scription of the circumstances under which such
 18 a cancellation may be made; and

19 “(B) an address and telephone number
 20 that the consumer may use to contact the credi-
 21 tor or the person servicing the mortgage.

22 “(e) NOTICES FURNISHED WITHOUT COST TO THE
 23 CONSUMER.—

1 “(1) IN GENERAL.—No fee or other cost may
 2 be imposed on any consumer with respect to the pro-
 3 vision of any notice or information to the consumer
 4 pursuant to this section.

5 “(2) REIMBURSEMENT.—A creditor or subse-
 6 quent servicer of the mortgage may seek reimburse-
 7 ment from the issuer of the private mortgage insur-
 8 ance, with respect to any cost incurred by that credi-
 9 tor or subsequent servicer in providing any notice or
 10 information to the consumer pursuant to this sec-
 11 tion.

12 “(f) EXISTING MORTGAGES.—If a consumer was re-
 13 quired to obtain and maintain private mortgage insurance
 14 as a condition for entering into a residential mortgage
 15 transaction occurring before the date of enactment of the
 16 Homeowners Protection Act of 1997—

17 “(1) not later than 180 days after that date of
 18 enactment, the creditor shall disclose, in writing, to
 19 each such consumer—

20 “(A) the information described in para-
 21 graphs (1) and (2) of subsection (c); and

22 “(B) that the private mortgage insurance
 23 may, under certain circumstances, be canceled
 24 by the consumer at any time while the mort-
 25 gage is outstanding; and

1 “(2) the person servicing the mortgage shall in-
 2 clude in or with each written statement of account
 3 provided to the consumer, beginning with the first
 4 such statement following the date of enactment of
 5 that Act, while such insurance is in effect, but not
 6 less than annually—

7 “(A) the information required to be dis-
 8 closed under subsection (c); or

9 “(B) a clear and conspicuous written state-
 10 ment containing—

11 “(i) a statement that the consumer
 12 may be able to cancel the private mortgage
 13 insurance (if such is the case); and

14 “(ii) an address and telephone num-
 15 ber that the consumer may use to contact
 16 the creditor or the person servicing the
 17 mortgage to determine whether the
 18 consumer has the right to cancel the pri-
 19 vate mortgage insurance and, if so, the
 20 conditions and procedures for canceling
 21 such insurance.

22 “(g) DEFINITIONS.—In this section, the following
 23 definitions shall apply:

24 “(1) MORTGAGE INSURANCE.—The term ‘mort-
 25 gage insurance’ means insurance, including any

1 mortgage guaranty insurance, against the nonpay-
 2 ment of, or default on, a mortgage or loan involved
 3 in a residential mortgage transaction.

4 “(2) PRIVATE MORTGAGE INSURANCE.—The
 5 term ‘private mortgage insurance’ means mortgage
 6 insurance other than mortgage insurance made
 7 available under the National Housing Act, title 38 of
 8 the United States Code, or title V of the Housing
 9 Act of 1949.

10 “(3) PRIVATE MORTGAGE INSURANCE RATIO.—
 11 The term ‘private mortgage insurance ratio’ means
 12 a principal balance outstanding on a residential
 13 mortgage equal to less than 80 percent of the origi-
 14 nal value (at the time at which the consumer entered
 15 into the original residential mortgage transaction) of
 16 the property securing the loan.

17 “(h) APPLICABILITY.—This section, other than as
 18 provided in subsection (d), shall apply with respect to resi-
 19 dential mortgage transactions entered into beginning 90
 20 days after the date of enactment of the Homeowners Pro-
 21 tection Act of 1997.”.

22 (b) CLERICAL AMENDMENT.—The table of sections
 23 for chapter 2 of the Truth in Lending Act (15 U.S.C.

- 1 1631 et seq.) is amended by striking the item relating to
- 2 section 126 and inserting the following:

“126. Cancellation rights for private mortgage insurance.”.

